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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,142	05/30/2001	Steven B. Smith	13660.17	4558
21999 7590 11/26/2008 KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111			EXAMINER MADAMBA, CLIFFORD B	
			ART UNIT 3696	PAPER NUMBER
			MAIL DATE 11/26/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/870,142

Applicant(s)

SMITH ET AL.

Examiner

CLIFFORD MADAMBA

Art Unit

3696

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 11-15 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11-15, 32-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after notice of allowance. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7 November 2008 has been entered.

Status of Claims

This action is in reply to the remarks and amendment for Application 09/870,142 filed on 7 November 2008.

Claims 1, 11, 32-34 have been amended.

Claims 2-10, 16-31 have been canceled.

Claims 1, 11-15, 32-34 are currently pending and have been examined.

Response to Arguments

The applicant's arguments filed on 7 November 2008 have been considered but are not persuasive.

The Office has given consideration to the remarks and amendments made to the pending set of claims, but are considered moot in light of the grounds of rejection, provided below, for the current listing of claims.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 32-34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim seems to merely involve a mental process -- or processes of human thinking -- are described as standing alone and are untied to any particular apparatus or any other categories of statutory matter (i.e., a machine, manufacture, or composition). The claim, as a whole, may be directed essentially to a mental method or process of calculating and is not limited to any otherwise statutory process, machine, manufacture or composition of matter. The claim is therefore considered to be unpatentable subject matter. *Comiskey* explains that mental processes *per se* are not statutory under § 101. Mental processes must be tied into some other category of statutory subject matter in order to be potentially patentable under § 101. *Comiskey* specifically states, "However, mental processes -- or processes of human thinking -- standing alone are not patentable even if they have practical application." (See *In re Comiskey*, 84 USPQ2d, at 1678) *Comiskey* continues with the rationale that "the patent statute does not allow patents on particular systems that depend for their operation on human intelligence alone, a field of endeavor that both the framers and Congress intended to be beyond the reach of patentable subject matter. Thus, it is established that the application of human intelligence to the solution of practical problems is not in and of itself patentable." (See *In re Comiskey*, 84 USPQ2d, at 1679) Claims 1, 32-34 do not fall into any of the four statutory categories under 35 U.S.C. 101 and the dependent claims do not remedy this issue; therefore, claims 1, 32-34 are non-statutory.

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under U.S.C. 103(a) as being unpatentable over Chancey et al., U.S. 5,842,185 ("Chancey"), in view of Wood, U.S. 7,050,997 ("Wood"), in further view of Ruggie et al., U.S. Pub 2002/0174006 ("Rugge").

Re claim 1: Chancey discloses *a method for budgeting financial resources in an automated fashion to provide a running balance, the method comprising:*

establishing a plurality of virtual financial accounts corresponding to budgetary categories overlaid upon an actual financial account (see at least column 3, lines 25-43); and,

allocating transactions to a virtual account corresponding to the type of transaction (see at least column 3, lines 46-51; column 4, lines 1-5).

Chancey doesn't explicitly disclose:

- *allocating portions of a budget to each of the plurality of accounts; and,*
- *automatically debiting the virtual account according to the transaction and crediting the virtual account when additional funds become available.*

Wood, however, makes these teachings (see at least column 7, lines 17-22 and lines 40-47; column 8, lines 41-44; see at least also column 5, lines 9-14 and lines 43-45; column 8, lines 63-66; figure 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Wood with the disclosures of Chancey as discussed above for the motivation of enabling a budgeting analysis tool for comparing current financial data with projected financial data (Wood, column 4, lines 54-64).

Chancey doesn't further disclose:

- *automatically searching credit card account and on-line checking account records of a plurality of actual financial accounts at a plurality of financial institutions for recent purchases; and,*
- *aggregating and displaying the search results.*

Rugge, however, makes these teachings (see at least Fig. 16 [310]; Fig. 17 [352]; par. 10, 37, 42, 46, 56-57, 71-72, 89-90, 95). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the limitation above, as taught by Rugge, with the limitation as taught by Chancey, for the motivation of estimating budget items based on past transactions and generating a forecast for one or more accounts.

Claim 32 is rejected under U.S.C. 103(a) as being unpatentable over Chancey et al., U.S. 5,842,185 ("Chancey"), in view of Wood, U.S. 7,050,997 ("Wood"), and further in view of Rugge et al., U.S. Pub 2002/0174006 ("Rugge").

Re claim 32: Chancey discloses *a method for managing financial resources in an automated fashion comprising:*

- *establishing a plurality of virtual financial accounts overlaid upon at least one actual financial account (see at least column 3, lines 25-43); and,*
- *allocating transactions to an account selected from the plurality of accounts (see at least column 3, lines 46-51; column 4, lines 1-5).*

Chancey doesn't explicitly disclose:

- *allocating a given amount of funding for each of the plurality of accounts; and,*
- *automatically debiting or crediting the allocated fund amount according to the transaction allocated to the particular account and from the actual financial account.*

Wood, however, makes these teachings (see at least column 7, lines 17-22 and lines 40-47; column 8, lines 41-44; see at least also column 5, lines 9-14 and lines 43-45; column 8, lines 63-66; figure 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Wood with the disclosures of Chancey as discussed above for the motivation of enabling a budgeting analysis tool for comparing current financial data with projected financial data (Wood, column 4, lines 54-64).

Chancey doesn't further disclose:

- *searching a plurality of actual accounts for purchases on a credit card or other financial instruments.*

Rugge, however, makes these teachings (see at least Fig. 16 [310]; Fig. 17 [352]; par. 10, 37, 42, 46, 56-57, 71-72, 89-90, 95). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the limitation above, as taught by Rugge, with the limitation as

taught by Chancey, for the motivation of estimating budget items based on past transactions and generating a forecast for one or more accounts.

Claims 11-15, 33-34 are rejected under U.S.C. 103(a) as being unpatentable over Chancey et al., U.S. 5,842,185 ("Chancey"), in view of Wood, U.S. 7,050,997 ("Wood"), and further in view of Goldsmith, U.S. 6,064,990 ("Goldsmith").

Re claims 11-15: claim 11 recites limitations already addressed by the rejection of claim 1 above, therefore the same rejection applies. Furthermore, Chancey discloses the structural elements of claims 11-15 that perform the recited functionality (see at least column 5, lines 43-46).

Re claim 33: Chancey discloses *a method for budgeting financial resources in an automated fashion comprising:*

establishing a plurality of virtual financial accounts overlaid upon an actual financial account (see at least column 3, lines 25-43); and,

allocating transactions to a virtual account corresponding to the type of transaction (see at least column 3, lines 46-51; column 4, lines 1-5).

Chancey doesn't explicitly disclose the limitations comprising:

- *allocating a given amount of budget for each of the plurality of accounts; and,*
- *automatically debiting the virtual account according to the transaction amount immediately after the transaction has been allocated to a virtual account and crediting the virtual account when funds become available.*

Wood, however, makes these teachings (see at least column 7, lines 17-22 and lines 40-47; column 8, lines 41-44; see at least also column 5, lines 9-14 and lines 43-45; column 8, lines 63-66; figure 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Wood with the disclosures of Chancey as discussed above for the motivation of enabling a budgeting analysis tool for comparing current financial data with projected financial data (Wood, column 4, lines 54-64).

Chancey also doesn't explicitly disclose the limitations comprising:

- *automatically periodically searching for transactions made on a plurality of user's credit cards; and,*
- *notifying the user of the transactions.*

Goldsmith, however, makes this teaching (see at least column 1, lines 53-64; column 4, lines 47-59). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of Goldsmith with the disclosures of Chancey as discussed above for the motivation of notifying a user of account activity (Goldsmith, column 1, lines 51-52).

Re claim 34: Chancey discloses a method for budgeting financial resources in an automated fashion to provide a running balance, the method comprising:

establishing a plurality of virtual financial accounts corresponding to budgetary categories overlaid upon an actual financial account (see at least column 3, lines 25-43); and,

allocating transactions to a virtual account corresponding to the type of transaction (see at least column 3, lines 46-51; column 4, lines 1-5).

Chancey doesn't explicitly disclose the limitations comprising:

- *allocating portions of a budget to each of the plurality of accounts;*
- *automatically debiting the virtual account according to the transaction amount immediately after the transaction has been allocated to a virtual account and crediting the virtual account when funds become available when a new budgetary period begins.*

Wood, however, makes these teachings (see at least column 7, lines 17-22 and lines 40-47; column 8, lines 41-44; see at least also column 5, lines 9-14 and lines 43-45; column 8, lines 63-66; figure 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Wood with the disclosures of Chancey as discussed above for the motivation of enabling a budgeting analysis tool for comparing current financial data with projected financial data (Wood, column 4, lines 54-64).

Chancey also doesn't explicitly disclose the limitations comprising:

- *automatically periodically searching for transactions made on a plurality of a user's credit card and notifying the user of the transactions;*
- *notifying a user when a purchase on a credit card or other financial instrument has been made.*

Goldsmith, however, makes this teaching (see at least column 1, lines 53-64; column 4, lines 47-59). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of Goldsmith with the disclosures of Chancey as discussed above for the motivation of notifying a user of account activity (Goldsmith, column 1, lines 51-52).

Examiner's Note: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Conclusion

Claims 1, 11-15, 32-34 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clifford Madamba whose telephone number is 571-270-1239. The examiner can normally be reached on Mon-Thu 7:30-5:00 EST Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon, can be reached at 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/THOMAS A DIXON/
Supervisory Patent Examiner, Art Unit 3696

Clifford Madamba
Patent Examiner